

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

| | | |
|-------------------------------|---|-------------------|
| THEODORE S. LUCERO, |) | |
| |) | |
| Plaintiff. |) | |
| |) | |
| vs. |) | 2:05-CV-00275-DRB |
| |) | [wo] |
| SOUTHERN MICRO SYSTEMS, INC., |) | |
| |) | |
| Defendant. |) | |

ORDER

Pursuant to the *Suggestion of Bankruptcy* (Doc. 44, April 25, 2006), reporting the Defendant's filing of Chapter 7 bankruptcy in the United States Bankruptcy Court for the Middle District of Alabama (Case No. 06-30456), and absent any showing of good cause not to dismiss this action without prejudice to the right of any party to petition for reinstatement,¹ it is the

ORDER, JUDGMENT, and DECREE of the court:

1. That this case is dismissed without prejudice to the right of any party to petition to reinstate this action to pursue any claim embraced herein not adjudicated in or discharged by proceedings in the bankruptcy court;
2. That such reinstatement, if and when allowed, will cause the filing date of any claim so reinstated to relate back to the original filing date of this action;
3. That any petition for reinstatement must be filed by a party within 60 days after the bankruptcy court has taken such action that entitles that party to seek reinstatement; and
4. That each party shall bear its own costs herein.

¹Neither party responded to this court's April 26, 2006 show cause Order setting a May 1, 2006 deadline for any such filing.

It is further **ORDERED** that the jury trial currently set for May 15, 2006 is CANCELLED. The Clerk of the Court is DIRECTED to mail a copy of this *Order* to the U.S. Bankruptcy Court for the Middle District of Alabama, with reference to Case No. 06-30456.

DONE this 3rd day of May, 2006.

/s/ Delores R. Boyd
DELORES R. BOYD
UNITED STATES MAGISTRATE JUDGE